IN THE UNITED STATES DISTRICT COURT FOR THE EASTERN DISTRICT OF WISCONSIN GREEN BAY DIVISION

APPLETON PAPERS INC. and NCR CORPORATION,

Plaintiffs,

v. Case No. 08-CV-00016-WCG

GEORGE A. WHITING PAPER COMPANY, et al.

Defendants

RESPONSE OF DEFENDANT CBC COATING, INC. TO PLAINTIFFS' PROPOSED FINDINGS OF FACT IN SUPPORT OF THEIR MOTION FOR SUMMARY JUDGMENT ON CERTAIN DEFENDANTS' STATE LAW COUNTERCLAIMS

Pursuant to Civil L.R. 56(b)(2)(B), Defendant CBC Coating, Inc. ("CBC") responds to Plaintiffs' [Proposed] Findings of Fact, Dkt. 945, as follows:

1. - 4.

<u>Response</u>: Proposed Findings of Fact 1-4 are not directed to CBC and therefore do not require a response from CBC.

5. Defendant CBC Coating has alleged that any liability CBC has under CERCLA at the Lower Fox River Site is attributable to the allegedly negligent actions of Plaintiffs. Roach Decl., Ex. 5 [Defendant, CBC Coating, Inc.'s Answer, Affirmative Defenses and Counterclaim to Seventh Amended Complaint, Dkt. 302 (Oct. 16, 2008)].

Response: CBC admits that Exhibit 5 to the Roach Declaration properly reproduces CBC's Answer, Affirmative Defenses and Counterclaim, Dkt. 302. That document and Defendant CBC Coating, Inc.'s Second Amended Answer, Affirmative Defenses and

Counterclaim to Seventh Amended Complaint, Dkt. 1081 (March 1, 2011) speak for themselves, and CBC denies Proposed Finding of Fact 5 to the extent that it characterizes CBC's pleadings.

6. CBC has not alleged any other damages resulting from the allegedly negligent actions of Plaintiffs other than its liability under CERCLA at the Lower Fox River Site. Roach Decl., Ex. 5 [Defendant, CBC Coating, Inc.'s Answer, Affirmative Defenses and Counterclaim to Seventh Amended Complaint, Dkt. 302 (Oct. 16, 2008)].

Response: CBC admits that Exhibit 5 to the Roach Declaration properly reproduces CBC's Answer, Affirmative Defenses and Counterclaim, Dkt. 302. That document and Defendant CBC Coating, Inc.'s Second Amended Answer, Affirmative Defenses and Counterclaim to Seventh Amended Complaint, Dkt. 1081 (March 1, 2011) speak for themselves, and CBC denies Proposed Finding of Fact 6 to the extent that it characterizes CBC's pleadings.

7. - 8.

Response: Proposed Findings of Fact 7-8 are not directed to CBC and therefore do not require a response from CBC.

9. CBC has alleged that any liability CBC has under CERCLA at the Lower Fox River Site is attributable to the allegedly unreasonably dangerous condition of the broke sold by Plaintiffs, and/or Plaintiffs' sale of an unreasonably dangerous product. Roach Decl., Ex. 5 [Defendant CBC Coating, Inc.'s Answer, Affirmative Defenses and Counterclaim to Seventh Amended Complaint, Dkt. 302 (Oct. 16, 2008)].

Response: CBC admits that Exhibit 5 to the Roach Declaration properly reproduces CBC's Answer, Affirmative Defenses and Counterclaim, Dkt. 302. That document and Defendant, CBC Coating, Inc.'s Second Amended Answer, Affirmative Defenses and Counterclaim to Seventh Amended Complaint, Dkt. 1081 (March 1, 2011) speak for themselves,

and CBC denies Proposed Finding of Fact 9 to the extent that it characterizes CBC's pleadings.

10. CBC has not alleged any other damages resulting from the Plaintiffs' alleged actions other than its liability under CERCLA at the Lower Fox River Site. Roach Decl., Ex. 5 [Defendant CBC Coating, Inc.'s Answer, Affirmative Defenses and Counterclaim to Seventh Amended Complaint, Dkt. 302 (Oct. 16, 2008)].

Response: CBC admits that Exhibit 5 to the Roach Declaration properly reproduces CBC's Answer, Affirmative Defenses and Counterclaim, Dkt. 302. That document and Defendant CBC Coating, Inc.'s Second Amended Answer, Affirmative Defenses and Counterclaim to Seventh Amended Complaint, Dkt. 1081 (March 1, 2011) speak for themselves, and CBC denies Proposed Finding of Fact 10 to the extent that it characterizes CBC's pleadings.

11. - 20.

Response: Proposed Findings of Fact 11-20 are not directed to CBC and therefore do not require a response from CBC.

Dated this 2nd day of August, 2012.

s/ Susan E. Lovern

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